

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

JOSEPH HUDSON,

Plaintiff,

VS.

Case No. 4:24-cv-00757-MTS

CAPITAL VACATIONS, LLC,

Defendant.

## MEMORANDUM AND ORDER

This matter is before the Court on Defendant’s Motion to Compel Arbitration and to Dismiss. Doc. [12]. Plaintiff opposes the Motion. Doc. [16]. Both sides included sworn declarations with their filings. When a motion to compel arbitration relies on matters outside of the pleadings, as it does here, a district court must treat the motion as one of summary judgment. *See Duncan v. Int’l Markets Live, Inc.*, 20 F.4th 400, 403 (8th Cir. 2021) (per curiam); *Nebraska Mach. Co. v. Cargotec Sols., LLC*, 762 F.3d 737, 741 (8th Cir. 2014). Viewing the record in the light most favorable to Plaintiff, as the Court must, material facts remain in dispute as to whether the parties agreed to arbitrate. *See Duncan*, 20 F.4th at 403.

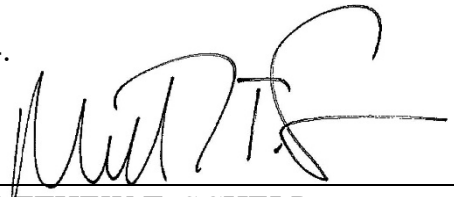
The next step, then, is to hold a trial. *Id.*; 9 U.S.C. § 4 (“If the making of the arbitration agreement . . . [is at] issue, the court shall proceed summarily to the trial thereof.”)). The Court will require the parties to confer and, no later than September 13, 2024, file a joint proposed scheduling plan to address each parties’ position on whether any limited discovery is necessary before trial, a timeline for any such limited discovery,

and a proposed trial date. *See, e.g., Vargas v. J&J Snack Foods Corp.*, 4:22-cv-01187-MTS, 2023 WL 4579325, at \*4 (E.D. Mo. July 18, 2023).

Accordingly,

**IT IS HEREBY ORDERED** that Defendant's Motion to Compel Arbitration and to Dismiss, Doc. [12], is **DENIED** without prejudice. No later than **Friday, September 13, 2024**, the parties shall file the joint proposed scheduling plan consistent with this Memorandum and Order.

Dated this 4th day of September 2024.



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MATTHEW T. SCHELP  
UNITED STATES DISTRICT JUDGE